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PAULEY CONSTRUCTION, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIFA TUIAKI and LUPE TUIAKI,

Plaintiffs,

v.

PACIFIC GAS AND ELECTRIC
COMPANY, PAULEY
CONSTRUCTION, INC., TRAFFIC
SOLUTIONS, INC., ADELPHIA
TELECOMMUNICATIONS CO., INC.,
SBC TELECOMMUNICATIONS, INC.,
MOBILE TOOL INTERNATIONAL, INC.
dba TELSTA, COUNTY OF
MENDOCINO, STATE OF
CALIFORNIA, PACIFIC BELL
TELEPHONE COMPANY, PACIFIC
TELESIS GROUP, SBC OPERATIONS,
INC., and DOES 1 to 50,

Defendants.

AND RELATED CROSS-ACTION.

CASE NO.: C07 2257 JCS

**[PROPOSED] ORDER GRANTING
PAULEY CONSTRUCTION, INC'S.
MOTION TO DISMISS [F.R.C.P. 12(b)(6)]**

Date: June 22, 2007
Time: 9:30 a.m.
Location: Courtroom A, 15th Floor
Judge: Magistrate Judge
Joseph C. Spero

The hearing on Pauley Construction, Inc's. ("Pauley") Motion to Dismiss Adelphia Communication Corporation's ("Adelphia") Second Amended Cross-complaint, pursuant to F.R.C.P. 12(b)(6), on the grounds that Adelphia's pleading fails to state a claim upon which relief can be granted, came on regularly for consideration on June 22, 2007, before this Court in Courtroom A, 15th

**[PROPOSED] ORDER GRANTING PAULEY CONSTRUCTION,
INC'S. MOTION TO DISMISS [F.R.C.P. 12(b)(6)]**; Case # C07 2257
JCS

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Floor of the United States District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California. Clapp, Moroney, Bellagamba & Vucinich appeared on behalf of Pauley. Ryan & Lifter appeared on behalf of Adelphia.

WHEREFORE, the Court, having considered and reviewed the moving papers, opposition, and reply, documents on file with the Court, and having heard oral argument from counsel, the Court rules as follows:

IT IS HEREBY ORDERED that Pauley's Motion to Dismiss is:

1. GRANTED as to cause of action 1, Breach of Contract - Full Performance alleged against Pauley in Adelphia's Second Amended Cross-complaint.

2. GRANTED as to cause of action 2, Breach of Contract - Waiver alleged against Pauley in Adelphia's Second Amended Cross-complaint.

3. GRANTED as to cause of action 3, Unjust Enrichment alleged against Pauley in Adelphia's Second Amended Cross-complaint.

4. GRANTED as to cause of action 4, Implied Equitable Indemnity alleged against Pauley in Adelphia's Second Amended Cross-complaint.

5. GRANTED as to cause of action 5, Contribution alleged against Pauley in Adelphia's Second Amended Cross-complaint.

6. GRANTED as to cause of action 7, Express Indemnity alleged against Pauley in Adelphia's Second Amended Cross-complaint.

IT IS FURTHER ORDERED that the Motion to Dismiss is sustained without leave to amend and that all causes of action above against Pauley are hereby dismissed.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF CALIFORNIA